

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3261 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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R O TRIVEDI

Versus

STATE OF GUJARAT

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Appearance:

MR MR ANAND for Petitioner

MR NN PANDYA for Respondent No.1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/06/96

ORAL JUDGEMENT

Heard learned counsel for the parties. The prayer of the petitioner for deemed promotion and seniority in the cadre of senior clerk as well as for fixation of his revised pay-scale at par with the pay of the juniors, cannot be accepted. The petitioner was given promotion on the post of senior clerk on 19th February, 1973 whereas his junior was promoted on 18th March, 1972. The petitioner has not made any grievance

against the promotion of his junior for all these years till filling of this Special Civil Application. What the learned counsel for the petitioner contended was that the petitioner made representations from time to time. May it be true, but it will not keep the cause surviving. In case the petitioner was actually aggrieved of the promotion junior, then he should have approached this Court at the earliest available opportunity. Leaving apart this, the petitioner is claiming deemed promotion in this writ petition only for the reason that he may get the pay equivalent to his junior, respondent No.4. It is in fact a prayer for stepping up of the pay, which cannot also be allowed. Stepping up of pay can only be granted where by virtue of fixation of pay in the revised pay-scale, the senior gets less pay. It is not a case here. Because of the revision of the pay-scale and fixation therein, there is no case where the petitioner started to get less pay than the respondent No.4. The respondent No.4 has been appointed as a junior clerk on 2.5.63, whereas the petitioner has been appointed as a junior clerk on 16.7.64. This gap of more than one year in the appointments of these two persons certainly resulted in getting of higher pay by respondent No.4. The learned counsel for the petitioner contended that the appointment of respondent No.4 on 2.5.63 was illegal or irregular and it should be treated to be legal appointment from 14.12.65. The petitioner does not acquire right of stepping up of the pay because it is not a case of petitioner that his salary has been reduced because fixation of the pay in revised pay scale. The matter is not ended here. The respondent No.4 has been promoted to the next higher post of senior clerk on 18.3.72, whereas the petitioner has been promoted on 19.2.73. Because of this late promotion of the petitioner also, the respondent No.4 would have started to get higher pay in the category of senior clerk. The respondent No.4 is getting higher pay because of his earlier initial appointment and the promotion. In view of these facts, no relief whatsoever can be granted to the petitioner as prayed in this Special Civil Application. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged.

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(sunil)